

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

BRIAN MICHAEL AALBERS,

Defendant.

Case No. 23-MJ-00139-LMC(SWH)

**MOTION OF THE UNITED STATES FOR
PRETRIAL DETENTION AND A HEARING PURSUANT
TO TITLE 18, UNITED STATES CODE, SECTION 3142(f)**

Comes now the United States of America, by Teresa A. Moore, United States Attorney, and the undersigned Assistant United States Attorney, both for the Western District of Missouri, and hereby moves the court to hold a hearing pursuant to 18 U.S.C. § 3142(f), for the purpose of demonstrating that no condition or combination of conditions of release will reasonably assure the safety of other persons and the community if defendant is granted bond, nor will any conditions secure defendant's appearance, and that therefore the defendant should be detained.

SUPPORTING SUGGESTIONS

1. Subsection 3142(f), Title 18, United States Code, provides that a hearing must be held by the appropriate judicial officer to determine whether any condition or combination of conditions will reasonably assure the defendant's appearance and the safety of any other person in the community if the attorney for the Government moves for such a hearing and if the case is in any one of the following categories:

A. The case involves a crime of violence, a term defined at Section 3156 to include either:

1. an offense that has as an element of the use, attempted use, or

threatened use of physical force against the person or property of another;

2. any other offense that is a felony and by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of its commission; or

3. **any felony under chapter . . .110 [18 U.S.C. §§ 2251 through 2260] or 117 [18 U.S.C. §§ 2421 through 2428] . . .”**

B. The case involves an offense where the maximum sentence is life imprisonment or death.

C. The case is a narcotics case under Title 21, United States Code, for which imprisonment for ten years or more is prescribed.

D. Any felony, even a non-violent felony not involving drugs, if the person already has two or more convictions for a crime of violence, a crime punishable by life imprisonment, or a ten-year drug felony.

E. **Any felony that is not otherwise a crime of violence that involves a minor victim.**

2. One or more grounds for pretrial detention and a pretrial detention hearing as set forth by the statute exists in the above cause, to wit:

A. The Defendant is Charged with a Crime of Violence

There is probable cause to believe that the defendant committed violations of Chapter 110, that is attempted production, in violation of 18 U.S.C. §§ 2251(a) and (e) respectively. This offense is each a crime of violence as defined by 18 U.S.C. § 3156(a)(4)(C) and referred to in 18 U.S.C. § 3142(f)(1)(A).

B. The Law Provides a Rebuttable Presumption That No Combination of Conditions Will Reasonably Assure the Safety of the Community

Pursuant to 18 U.S.C. § 3142(e)(3), the law provides that, when a judicial officer finds that there is probable cause to believe that the defendant has committed an offense involving a minor under 2251, attempted production of child pornography, an offense with which the defendant has been charged, “[s]ubject to rebuttal by the person, it shall be presumed that no condition or combination of conditions will reasonably assure . . . the safety of the community.”

C. The Defendant is a Danger to the Community

The investigation of this offense has uncovered evidence that the defendant is a danger to the community, and specifically a danger to minors. Such evidence includes the following:

The defendant is charged by way of a complaint with attempted production of child pornography, in violation of 18 U.S.C. §§ 2251(a) and (e).

On October 28, 2023, officers with the Kansas City, Missouri Police Department were dispatched to a [REDACTED] located in Kansas City, Missouri to meet with a reporting party, who had located concealed video cameras [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] [REDACTED] [REDACTED]

[REDACTED] AALBERS, [REDACTED]

[REDACTED] arrived on scene as the officers were present but provided no statement.

The initial reporting officers consulted a Kansas City, Missouri Police detective, who directed the officers to release AALBERS from the scene pending further investigation and to document the incident.

The reporting party later contacted the Kansas City, Missouri Police Department as AALBERS was sending ■■■ suicidal text messages after the initial report and contact with law enforcement. These statements included, “I am going to jail/lose my license I do not want to die,” and “I do not want my kids to see me dead.” The reporting party located AALBERS through an application on ■■■ phone, noting his location to be in Lenexa, Kansas. Officers with the Lenexa, Kansas Police Department located AALBERS at the Radisson Hotel in Lenexa, Kansas and transported him to Advent Health Medical Center (“Advent Health”), in Merriam, Kansas, to obtain voluntary mental health treatment.

Per hospital policy, Advent Health security took possession of two unknown brand laptop computers, two iPad tablets, and a silver unknown brand cell phone, contained within a black backpack, possessed by AALBERS when he entered their facility. The Affiant knows from prior interactions at the hospital that patients are generally not allowed access to electronic devices when in the hospital for mental health treatment. These devices were secured in Advent Health’s security office during the early morning hours of October 29, 2023.

On October 30, 2023, the reporting party contacted the Kansas City, Missouri Police Department stating AALBERS had contacted ■■■. AALBERS requested that the reporting party respond to the hospital to retrieve his black backpack, containing his electronic devices, from Advent Health’s security office. The reporting party stated that AALBERS asked ■■■ to destroy these items because there was “bad stuff” present on the devices.

On October 30, 2023, a Kansas City, Missouri Police detective contacted a FBI Task Force Officer (“TFO”) and requested assistance with this matter. The FBI TFO contacted an Advent Health security officer, who confirmed that AALBERS’ electronic devices were still secured in their office. In addition, the FBI TFO requested those items be held pending the application of a

search warrant. The security officer advised that the items were sealed and could not be accessed for further descriptive information at that time. On October 31, 2023, and November 1, 2023, the Honorable James P. O'Hara issued search warrants in the District of Kansas pertaining to devices believed to have been utilized by AALBERS, that were located at Advent Health.

On October 30, 2023, based on the reporting party's request, a detective and other law enforcement officers with the Kansas City, Missouri Police Department conducted a [REDACTED] search of [REDACTED] residence. [REDACTED] assisted with law enforcements recovery of two Apple MacBook computers, a Transcend microSD card, and a new camera with a microSD card still enclosed, which closely resembled the cameras [REDACTED] All of these devices were located in the [REDACTED] bedroom on [REDACTED] [REDACTED] [REDACTED] indicated that all were owned by AALBERS. In addition, a broken camera with a microSD card still enclosed, closely resembling the cameras discovered [REDACTED] [REDACTED] AALBERS informed the reporting party that he had placed this camera there. On November 6, 2023, the Honorable Jill A. Morris, United States Magistrate Judge, issued search warrants in the Western District of Missouri authorizing the search of these seven electronic devices, which had been recovered from [REDACTED] [REDACTED]

The concealed cameras, [REDACTED] were described in the Kansas City, Missouri Police report as two small devices, containing microSD memory cards, connected to a power source. The Affiant knows microSD cards are storage media for these cameras and require a computer or other device to review the footage captured. Once these files are processed on a computer, they can then be shared or stored on other electronic devices or applications.

All of the devices seized pursuant to the search warrants from the Western District of Missouri and the District of Kansas were subsequently taken to the Heart of America Regional Forensics Computer Laboratory (“RCFL”) for analysis.

During the initial examination of the devices, a silver Apple MacBook Pro A1707 was identified as containing video footage, which showed what law enforcement knew to [REDACTED]

[REDACTED] The camera footage, observed by law enforcement, spanned from approximately December 2020 until the cameras were located on October 28, 2023. Law enforcement observed camera footage, which shows AALBERS appearing to set up or maneuver the camera(s) on numerous occasions, adjusting the cameras’ angles of view. The view of the camera is such that it captured footage of [REDACTED] [REDACTED]

[REDACTED] Additionally, during a review of obtained video footage, law enforcement observed the [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED] [REDACTED]

On November 14, 2023, the forensic examiner from the RCFL notified investigators that over 20,000 videos were identified during the review of the silver Apple MacBook Pro A1707, serial number C02TWOJ8HTD9. The filenames indicate that these videos spanned over a period of time on or around December 28, 2020 through October 28, 2023, when law enforcement was contacted.

Of those identified videos from the silver Apple MacBook ProA1707, [REDACTED]

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

The forensic examiner also noted that approximately 10 to 12 additional minor victims that were captured in these video recordings. Of those individuals, it is estimated that one or two are observed in states of nudity, [REDACTED] Law enforcement is currently working on identifying these additional minor victims. Currently, the forensic examiner has identified and flagged 1006 videos [REDACTED]

[REDACTED]

D. The Defendant is a Potential Flight Risk

The defendant is a potential flight risk because he is aware of the extensive potential punishment awaiting him upon conviction. The defendant has been charged with attempted production of child pornography, which carries a mandatory minimum sentence of 15 years' imprisonment. It should also be noted that AALBERS was arrested after being released from a mental health facility, where he was being treated for his suicidal ideations after his initial law enforcement contact.

E. Conclusion

The defendant has engaged in a crime of violence and is a risk to the community at large, especially to minors. The defendant is aware of the significant minimum mandatory sentence, as well as the maximum punishment his charges carry. The potential punishment maximizes the defendant's risk of flight.

WHEREFORE, the Government respectfully requests that this Honorable Court set a detention hearing to demonstrate that no condition or combination of conditions reasonably assure the safety of the community or diminish the defendant's risk of flight in the face of strong evidence which will exact a lengthy prison sentence. The Government further requests that the court thereafter detain defendant without bail.

Respectfully submitted,

Teresa A. Moore
United States Attorney

By /s/Maureen A. Brackett

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was delivered on November 16, 2023, to the CM-ECF system of the United States District Court for the Western District of Missouri, and a copy of the foregoing will be hand-delivered to the defendant at his first appearance before a judicial officer.

/s/Maureen A. Brackett

Maureen A. Brackett
Assistant United States Attorney